

**IN THE UNITED STATES DISTRICT COURT FOR THE EASTERN
DISTRICT OF MISSOURI
SOUTHEASTERN DIVISION**

PAMELA CRAIG,)	
)	
Plaintiffs,)	
)	
v.)	Case No.:
)	
FRANKLIN H. MCGINTY, M.D.,)	
BONIFACE (CHARLES) NDAH, M.D.,)	JURY TRIAL DEMANDED
and LABORATORY CORPORATION)	
OF AMERICA,)	
)	
Defendants.)	

COMPLAINT FOR MEDICAL MALPRACTICE

COMES NOW the Plaintiff, Pamela Craig, by and through her attorney, Mark S. Johnson of Johnson, Schneider & Ferrell, L.L.C., and for her Complaint for Medical Malpractice against the Defendants, Franklin H. McGinty, M.D., Boniface (Charles) Ndah, M.D., and Laboratory Corporation of America, states as follows:

JURISDICTION AND VENUE

1. Jurisdiction of this Court is invoked pursuant to 28 U.S.C. Section 1332 because of diversity of citizenship of the parties and the amount in controversy exceeds the jurisdictional limit of \$75,000.00.

2. Venue is placed in this District and Division pursuant to 28 U.S.C. Section 1391 because it is where the individual Defendant McGinty resides and has his principal office and where a substantial part of the events giving rise to Plaintiffs' claim occurred.

PARTIES

3. That the Plaintiff, Pamela Craig, is an individual citizen of the State of Illinois.

4. That the Defendant, Franklin H. McGinty, M.D., is an individual citizen of the State of Missouri and at all times material to this Complaint was a duly licensed, practicing physician engaged in his profession in the City and County of Cape Girardeau, Missouri and held himself out to the public as being skilled, careful and diligent in the practice of his profession of general surgery.

5. That the Defendant, Boniface (Charles) Ndah, M.D., is an individual citizen of the State of Indiana and at all times material to this Complaint was a duly licensed, practicing physician engaged in his profession and held himself out to the public as being skilled, careful and diligent in the practice of his profession of pathology.

6. That the Defendant, Laboratory Corporation of America is a corporation and citizen in the State of North Carolina with offices in the City of Louisville, Kentucky.

7. That the Defendant, Boniface (Charles) Ndah, M.D., at all times material herein, was an employee or agent of the Defendant, Laboratory Corporation of America, and was acting within the scope of that agency at all times material to this Complaint.

COMMON FACTUAL ALLEGATIONS

8. That after her visit with her general physician on July 17, 2015, the Plaintiff was referred to the Defendant McGinty for the evaluation and treatment of a lesion on her back.

9. That the Plaintiff began her treatment with the Defendant McGinty on July 23, 2015 and that treatment continued through her last visit with him regarding the lesion on her back on September 10, 2015.

10. That on July 30, 2015, the Defendant McGinty performed the first excision of the lesion on Plaintiff's back. The Pathology Report provided to the Defendant McGinty from the first excision of the lesion was "superficial spreading melanoma" within the margins of the excised lesion.

11. The Defendant McGinty performed a re-excision of the lesion on Plaintiff's back on August 27, 2015 that Defendant McGinty described as a "wide local excision of melanoma from the back."

12. That Defendant McGinty referred the excised mass from Plaintiff's back to Defendant Laboratory Corporation of America, at its offices in Louisville, Kentucky, who, through its agent, Defendant Ndah, diagnosed the re-excised mass as "scar tissue with no residual tumor."

13. That the Defendant McGinty released the Plaintiff from his care on September 10, 2015 without any referral to an oncologist or surgical oncologist.

14. That in June 2017, the Defendant McGinty diagnosed the Plaintiff with malignant melanoma that was found in a mass in her right arm that involved her lymph nodes.

15. The Plaintiff then sought further medical care from a surgeon and oncologists at the University of Chicago Medicine who reviewed the pathology slides of the Defendant McGinty's excisions of the Plaintiff's lesion on her back in July and August 2015 and informed her that these pathology slides still contained malignant melanoma and that further treatment should have started immediately.

COUNT I - MEDICAL NEGLIGENCE AGAINST
FRANKLIN H. MCGINTY, M.D.

16. That from July 23, 2015 through September 10, 2015 and at all other material times herein, the Defendant McGinty failed to exercise a degree of care, skill and knowledge customarily employed by general surgeons and was therefore professionally negligent in failing to correctly and successfully treat the Plaintiff's malignant melanoma in one or more of the following actions or omissions of action:

(a) The Defendant failed to obtain sufficient margins in the excision of the malignant melanoma from Plaintiff's back;

(b) The Defendant failed to monitor the Plaintiff's condition to ensure that he successfully excised the Plaintiff's malignant melanoma;

(c) The Defendant failed to make an appropriate referral to other healthcare providers to monitor and evaluate the Plaintiff's condition that would include oncologists or surgical oncologists.

17. That one or more of the forgoing negligent acts or omissions to act caused or contributed to cause the metastasis of the Plaintiff's malignant melanoma in other parts of her body and has required her to incur additional medical expenses for her care and treatment of her malignant melanoma and has also caused Plaintiff to suffer great pain and suffering and the loss of normal quality of life and loss of her normal sources of income.

WHEREFORE, Plaintiff, Pamela Craig, prays for judgment against the Defendant, Franklin H. McGinty, M.D., for a sum in excess of Seventy-Five Thousand Dollars (\$75,000.00) and for such other and further relief as this Court deems just and proper including the recovery of Plaintiff's cost of suit.

COUNT II - MEDICAL NEGLIGENCE AGAINST BONIFACE (CHARLES) NDAH, M.D. AND LABORATORY CORPORATION OF AMERICA

18. That the Defendant, Boniface (Charles) Ndah, M.D., individually and as agent of the Defendant, Laboratory Corporation of America, failed to exercise the degree of care, skill and knowledge customarily employed by a pathologist and was therefore professionally negligent in one or more of the following negligent acts or omissions to act:

(a) failed to recognize the existence of the malignant melanoma in the slides he examined;

(b) failed to refer or otherwise have the Plaintiff's pathology slide examined by another pathologist or dermatopathologist to confirm that the excised mass did not contain any malignant melanoma.

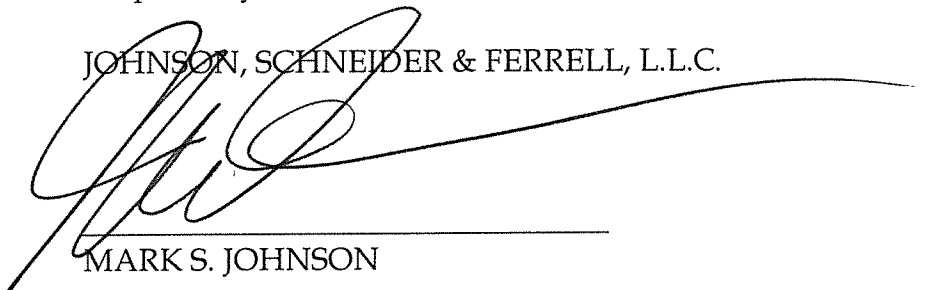
19. That one or more of the forgoing negligent acts or omissions to act caused or contributed to cause the metastasis of the Plaintiff's malignant melanoma in other parts of her body and has required her to incur additional medical expenses for her care and treatment of her malignant melanoma and has also caused Plaintiff to suffer great pain and suffering and the loss of normal quality of life and loss of her normal sources of income.

WHEREFORE, Plaintiff, Pamela Craig, prays for judgment against the Defendant, Boniface (Charles) Ndah, M.D., and Laboratory Corporation of America, jointly and severally, for a sum in excess of Seventy-Five Thousand Dollars (\$75,000.00) and for such other and further relief as this Court deems just and proper including the recovery of Plaintiff's cost of suit.

PLAINTIFF DEMANDS A JURY OF SIX (6) TO HEAR THIS MATTER ON ALL COUNTS OF PLAINTIFF'S COMPLAINT.

Respectfully submitted,

JOHNSON, SCHNEIDER & FERRELL, L.L.C.

A large, stylized handwritten signature in black ink, appearing to read 'Mark S. Johnson', is written over a horizontal line. The signature is fluid and cursive, with the last name 'Johnson' being particularly prominent.

MARK S. JOHNSON

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